

EXHIBIT 16

DECHERT LLP
1095 Avenue of the Americas
New York, New York 10036
Tel: (212) 698-3500
Fax: (212) 698-3599
Andrew J. Levander
andrew.levander@dechert.com
Gary J. Mennitt
gary.mennitt@dechert.com
Neil A. Steiner
neil.steiner@dechert.com
Jonathan D. Perry
jonathan.perry@dechert.com

*Attorneys for Defendants J. Ezra Merkin
and Gabriel Capital Corporation*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----	X	
In re:	:	
	:	
BERNARD L. MADOFF INVESTMENT	:	SIPA LIQUIDATION
SECURITIES LLC,	:	
	:	No. 08-01789 (BRL)
Debtor.	:	
-----	X	
IRVING H. PICARD, Trustee for the Liquidation	:	
of Bernard L. Madoff Investment Securities LLC,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Adv. Proc. No. 09-01182 (BRL)
	:	
J. EZRA MERKIN, GABRIEL CAPITAL, L.P.,	:	
ARIEL FUND LTD., ASCOT PARTNERS, L.P.,	:	
GABRIEL CAPITAL CORPORATION,	:	
	:	
Defendants.	:	
-----	X	

**INITIAL DISCLOSURE STATEMENT OF DEFENDANTS
J. EZRA MERKIN AND GABRIEL CAPITAL CORPORATION**

Defendants J.Ezra Merkin and Gabriel Capital Corporation ("Defendants"), by and through their undersigned attorneys, Dechert LLP, hereby provide the following Initial Disclosure Statement pursuant to Rule 26(a)(1) of the Federal Rules of Civil Procedure, which is made applicable to this adversary proceeding by Rule 7026 of the Federal Rules of Bankruptcy Procedure.

INITIAL DISCLOSURE QUALIFICATIONS

1. This Initial Disclosure Statement is made based upon information presently known to Defendants and is given without prejudice to producing discovery or data, information or documents as are: (i) subsequently discovered; (ii) subsequently determined to be relevant for any purpose; or (iii) subsequently determined to have been omitted from these disclosures.
2. Defendants hereby expressly reserve the right at any time to revise and/or supplement this Initial Disclosure Statement and the information and documents provided pursuant to Defendants' initial disclosure obligations.
3. Defendants hereby expressly reserve all objections to the use for any purpose of this Initial Disclosure Statement or any of the information and documents referenced herein in this case or any other case or proceeding.

INITIAL DISCLOSURES PURSUANT TO RULE 26(a)(1)(A)

- (i) **[T]he name, and if known, the address and telephone number of each individual likely to have discoverable information -- along with the subjects of that information -- that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.**

Subject to and without waiving the Initial Disclosure Qualifications, Defendants hereby identify the following individuals as likely to have discoverable information that Defendants may use to support their defenses and such individuals' areas of knowledge:

<u>Name</u>	<u>Contact Information</u>	<u>Subject</u>
J. Ezra Merkin	c/o Andrew J. Levander, Esq. Dechert LLP 1095 Avenue of the Americas New York, NY 10036-6797 (212) 698-3500	Communications between BLMIS/Madoff and Defendants; the Defendant Funds' BLMIS accounts, and their contributions to and withdrawals from their BLMIS accounts; investments in and redemptions from the Defendant Funds; Defendants' due diligence concerning BLMIS/Madoff; Defendants' lack of knowledge of the BLMIS fraud; the purported red flags indicating fraud identified in the Second Amended Complaint; that the Defendant Funds took the Transfers in good faith; communications with the Defendant Funds' investors concerning the Defendant Funds' investments with BLMIS/Madoff; Defendants' receipt of any portion of the Transfers
Michael Autera	c/o Andrew J. Levander , Esq. Dechert LLP 1095 Avenue of the Americas New York, NY 10036-6797 (212) 698-3500	Communications between BLMIS/Madoff and Defendants; the Defendant Funds' BLMIS accounts, and their contributions to and withdrawals from their BLMIS accounts; investments in and redemptions from the Defendant Funds; Defendants' due diligence concerning BLMIS; Defendants' lack of knowledge of the BLMIS fraud; the purported red flags indicating fraud identified in the Second Amended Complaint; that the Defendant Funds took the Transfers in good faith; communications with the Defendant Funds' investors concerning the Defendant Funds' investments with BLMIS/Madoff; Defendants' receipt of any portion of the Transfers

Employees of BDO Seidman LLP, including, without limitation, Robert Castro, Irina Gershengoren and Richard Lanigan	c/o Ira G. Greenberg, Esq. Edwards Angell Palmer & Dodge LLP 750 Lexington Avenue 8 th Floor New York, NY 10022	Auditing of the Defendant Funds' investments with BLMIS
Employees of Union Bancaire Privee and/or UBP Asset Management LLC, including Roman Igolnikov, John B. Levitt, Xinyu Liu, Lauri Martin and Paul Olin	30 Rockefeller Plaza New York, NY 10112 (212) 218-6750 c/o Wachtell, Lipton, Rosen & Katz 51 West 52 nd Street New York, NY 10019	Due diligence concerning BLMIS
Reichmuth & Co., including Christof Reichmuth and Patrick Erne	Rutligasse 1 CH-6000 Lucerne 7 +41 41 249 49 29	Due diligence concerning BLMIS
Michael Matlin	Unknown	Due diligence concerning BLMIS
Employees and former employees of the United States Securities and Exchange Commission	Unknown	Examinations and investigations of BLMIS
Irving H. Picard	c/o Baker & Hostetler LLP 45 Rockefeller Plaza New York, NY 10111	The allegations of the Second Amended Complaint, the assets and liabilities of BLMIS, claims submitted in this SIPC liquidation and other adversary proceedings filed by Picard in this SIPC liquidation
Bernard L. Madoff	Butner Federal Correctional Complex Butner, NC 27509	BLMIS's efforts to conceal the fraud and mislead any person or entity who attempted to inquire, investigate or examine BLMIS

Peter B. Madoff	c/o Lankler Siffert & Wohl, LLP 500 Fifth Avenue 33d Floor New York, NY 10110	Knowledge, or lack thereof, of BLMIS's fraud
Andrew H. Madoff	c/o Paul, Weiss, Rifkind, Wharton & Garrison, LLP 1285 Avenue of the Americas New York, NY 10019	Knowledge, or lack thereof, of BLMIS's fraud
Shana D. Madoff	c/o Smith Valliere PLLC 509 Madison Avenue New York, NY 10022	Knowledge, or lack thereof, of BLMIS's fraud
Frank DiPascali	Unknown	BLMIS's efforts to conceal the fraud and mislead any person or entity who attempted to inquire, investigate or examine BLMIS
Annette Bongiorno	Unknown	BLMIS's efforts to conceal the fraud and mislead any person or entity who attempted to inquire, investigate or examine BLMIS
Joann Crupi	Unknown	BLMIS's efforts to conceal the fraud and mislead any person or entity who attempted to inquire, investigate or examine BLMIS
Jerome O'Hara	Unknown	BLMIS's efforts to conceal the fraud and mislead any person or entity who attempted to inquire, investigate or examine BLMIS
George Perez	Unknown	BLMIS's efforts to conceal the fraud and mislead any person or entity who attempted to inquire, investigate or examine BLMIS

BLMIS employees and former employees, other than those identified above, whose specific identities will be determined based on further discovery	Unknown	Knowledge, or lack thereof, of BLMIS's fraud; BLMIS's efforts to conceal the fraud and mislead any person or entity who attempted to inquire, investigate or examine BLMIS; knowledge of the purported red flags identified in the Second Amended Complaint; inquiries, investigations or audits concerning BLMIS, and BLMIS's responses thereto
BLMIS customers and their employees, whose specific identities will be determined based on further discovery	Unknown	Knowledge, or lack thereof, of BLMIS's fraud; knowledge of the purported red flags identified in the Second Amended Complaint; deposits to and withdrawals from their BLMIS accounts; inquiries, investigations or audits concerning BLMIS, and BLMIS's responses thereto

- (ii) **[A] copy – or a description by category and location -- of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.**

Subject to and without waiving the Initial Disclosure Qualifications, Defendants GCC and Merkin hereby state that they have in their possession, custody or control the following categories of documents that they may use to support their claims and defenses, other than for use solely as impeachment. All of the documents described below are in the possession of Gabriel Capital Corporation, c/o Dechert LLP, 1095 Avenue of the Americas, New York, NY 10036:

1. Documents constituting or reflecting communications between BLMIS or Madoff (as those terms are defined in the Second Amended Complaint) and Defendants.
2. Documents constituting or concerning contracts or agreements, including trading authorization agreements, between BLMIS or Madoff and Defendants.
3. Documents concerning the Defendant Funds' (as that term is defined in the Second Amended Complaint) BLMIS accounts.
4. Documents concerning the Defendant Funds' contributions to and withdrawals from their BLMIS accounts.
5. Documents concerning the Transfers (as that term is defined in the Second Amended Complaint).
6. Documents concerning Defendants' due diligence with regard to BLMIS and Madoff.
7. Records of BDO Seidman LLP concerning its audits of Defendant Funds' investments with BLMIS.
8. Documents concerning the trading activity reported by BLMIS, including databases containing such information and reports generated from such databases.
9. Documents evidencing or concerning that Defendants did not have knowledge of the BLMIS fraud.
10. Documents concerning the purported red flags identified in the Second Amended Complaint.
11. Documents evidencing that the Defendant Funds took the Transfers in good faith.
12. Documents concerning the investments in and redemptions from the Defendant Funds.

13. Documents evidencing or concerning communications with the Defendant Funds' investors with regard to BLMIS.

14. Offering documents and governing documents concerning the Defendant Funds, including subscription documents, offering memoranda, prospectuses, partnership agreements, and investment advisory agreements for the Defendant Funds.

15. Other documents concerning BLMIS.

- (iii) **[A] computation of each category of damages claimed by the disclosing party – who must also make available for inspection and copying as under Rule 34 the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.**

Not applicable.

- (iv) **[F]or inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.**

Not applicable.

Dated: New York, New York
January 14, 2011

DECHERT LLP

By: 

Andrew J. Levander

Gary J. Mennitt

Neil A. Steiner

Jonathan D. Perry

1095 Avenue of the Americas

New York, New York 10036

(212) 698-3500

andrew.levander@dechert.com

gary.mennitt@dechert.com

neil.steiner@dechert.com

jonathan.perry@dechert.com

*Attorneys for Defendants J. Ezra Merkin
and Gabriel Capital Corporation*

CERTIFICATE OF SERVICE

I, Jonathan D. Perry, hereby certify:

I am over eighteen (18) years of age. I am associated with Dechert LLP, counsel for Defendants J. Ezra Merkin and Gabriel Capital Corporation. On January 14, 2011, I caused a true and correct copy of the foregoing *Initial Disclosure Statement of Defendants J. Ezra Merkin and Gabriel Capital Corporation* to be served upon the following attorneys by electronic mail as indicated below:

Attorneys for Plaintiff Irving H. Picard, Esq.,
Trustee for the SIPA Liquidation of Bernard L. Madoff Investment Securities LLC

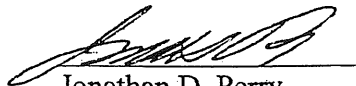
David J. Sheehan, Esq.
Marc E. Hirschfield, Esq.
Marc D. Powers, Esq.
Louis Colombo, Esq.
David E. Kitchen, Esq.
Baker & Hostetler LLP
dsheehan@bakerlaw.com
mhirschfield@bakerlaw.com
mpowers@bakerlaw.com
lcolombo@bakerlaw.com
dkitchen@bakerlaw.com

Attorneys for Defendants Ariel Fund Ltd. and Gabriel Capital, L.P.

Lance Gotthoffer, Esq.
James C. McCarroll, Esq.
Reed Smith LLP
lgotthoffer@reedsmith.com
mccarroll@reedsmith.com

Attorneys for Defendant Ascot Partners, L.P.

Matthew T. Tulchin, Esq.
David Pitofsky, Esq.
Goodwin Procter LLP
mtulchin@goodwinprocter.com
dpitofsky@goodwinprocter.com


Jonathan D. Perry